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The Monthly Report of Legislative Activity



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DECEMBER 1990 HELENA, MONTANA Vol. VII No. 18

ATTENTION: ALL RETIRING LEGISLATORS

Any legislator with five or more years of legislative service who is not returning to the Legislature or other public employment and wishes to participate in the benefits of the Public Employees' Retirement System must purchase their legislative service before their term of office ends. For specific information contact the Public Employees' Retirement Division, 1712 Ninth Avenue, Helena, MT 59620, or call 444-3154.

If you are 50 years old and have at least 5 years of creditable service in the PERS, you are eligible to continue on the state's Health Plan by self-paying your health premiums, or having them withheld from your retirement benefits check if you are receiving monthly benefits from PERS. For specific information contact the Labor Relations and Employee Benefits Bureau of the Department of Administration, Sam W. Mitchell Building, Helena, MT 59620, or call 444-2553.

SPECIAL TO MEMBERS OF THE NEXT LEGISLATURE

If you have not completed and returned the information requested at the caucus, please do so at your earliest convenience. A number of members have reported no telephone number or have left other information out. We assume that means no telephone number is desired for publication in the legislative directory. Returning members who have no change to report as to their income tax deductions need not submit a

W-4. Deductions will remain as they are on the most recently filed form.

Often it seems like a lot, but your cooperation in providing the information will help you get paid sooner and more accurately and help us serve you better.

LEGISLATIVE FINANCE COMMITTEE

Budget Amendments Reviewed...On Nov. 16, the Legislative Finance Committee reviewed and determined that four budget amendments complied with statutory requirements. One amendment, a request by the Department of Highways for \$3.4 million in additional spending authority from the highways state revenue account, will provide matching funds for \$12.1 million in federal highway funds. During the 1991 biennium, the Committee considered 72 budget amendments, which added \$49.8 million in spending authority and 211 FTE.

Staff Reports...The Committee also reviewed two staff reports concerning the 1993 budget:

PRELIMINARY BUDGET PROJECTIONS: Based on preliminary revenue and expenditure estimates, revenue under existing law will be sufficient during the 1993 biennium to fund current level general fund programs and the existing school foundation program, leaving a surplus (including the target ending fund reserve) of \$54 million. However, the projected revenues will not be sufficient to fully fund requests for new programs, inflationary adjustments, or substantial tax reductions. The report provided estimates of the cost of inflationary increases in the foundation program, pay plan, agency budgets, and medical and human service provider payments.

EXECUTIVE BUDGET NARRATIVES: There will be two significant changes in the executive budget documents. The Executive Budget Book issued in early December will not provide details on expenditure or funding recommendations by program. Instead, it will present a single table for each agency, showing agency-wide recommendations for personal services, operating, and equipment costs and funding sources. Detail on program recommendations will be published in January, when the Office of Budget and Program Planning plans to present an estimated 1,600 pages of agency narrative.

Meeting Early in Session...The Committee will meet the first week of

the 1991 session to review the Budget Analysis for the 1993 Biennium, which LFA staff members are currently preparing.

LEGISLATIVE OVERSIGHT COMMITTEE ON SCHOOL FUNDING IMPLEMENTATION

Committee Receives Reports...The Legislative Oversight Committee on School Funding Implementation on Nov. 15 heard the following reports:

- OPI analysis of school district budgets for fiscal years 1990 and 1991 (see summary analysis below);
- usage and costs of the guaranteed tax base program;
- a preliminary analysis of how the budget caps have affected spending disparities per student and local tax obligations;
- a status report on Public Law 81-874 funding for Montana schools and the prospects of equalizing a portion of this federal funding source;
- options for equalizing school facility funding, with special emphasis on using the guaranteed tax base approach;
- options for equalizing school transportation costs, which focused on 100% state funding of the schedules or maintaining district or county shares with guaranteed tax base aid; and
- draft legislation to fund and implement an educational telecommunication network.

Meeting Set Dec. 1...The Committee discussed but did not act on the items. A final Committee meeting is scheduled for Saturday, Dec. 1, at 9 a.m. in Room 104 of the Capitol.

SUMMARY ANALYSIS OF FISCAL 1991 SCHOOL GENERAL FUND BUDGETS

OPI Reports on Funding...The Office of Public Instruction reported

to the Legislative Oversight Committee on School Funding Implementation on the financial operations of schools. The school district general fund budgets total \$569.6 million for fiscal 1991 compared with combined general fund and comprehensive insurance budgets of \$543.7 million for fiscal 1990. The fiscal 1991 budgets represent a \$25.8 million or 4.7 percent increase over fiscal 1990. Funding provided through the foundation program schedules increased from \$287.6 million (maximum general fund budget without a vote) in fiscal 1990 to \$347.9 million in fiscal 1991. The state funded this \$60.8 million increase and also assumed \$17 million of foundation schedule funding that was formerly paid by districts through the 6 and 4 mill permissive levies. In the overschedule area, state guaranteed tax base aid provides \$30.8 million to school districts in fiscal 1991.

This additional state funding of \$108 million pushed the state share of school general fund budgets from 55 percent for the 1989-1990 school year to 72 percent for the 1990-1991 school year. When the district share of the 35 percent permissive area is added to state foundation and GTB aid, approximately 81.2 percent of school general fund budgets are funded with equalized revenue; that is, revenue that is available to rich and poor districts alike. In the permissive portion of the budgets, one dollar of state aid is matched by roughly two dollars raised through district permissive levies.

Spending per ANB grew faster at the elementary level than at the high school level. Per pupil spending in fiscal 1991 grew by 6.3 percent to \$3,420 at the elementary level and by 4.6 percent to \$4,914 at the high school level.

REVENUE OVERSIGHT COMMITTEE

Revenue Estimating Begins in Earnest..SB 341, enacted by the 51st Legislature, directs the Revenue Oversight Committee (ROC) to estimate the amount of revenue projected for legislative appropriation and to introduce a House Joint Resolution setting forth those estimates. At its Nov. 16 meeting, ROC heard testimony from economists, representatives from the mining industries in Montana, and state agency officials regarding the various economic assumptions that may be incorporated into the revenue estimating models. The general outlook is for relatively modest growth in the state economy. The Bureau of Business and Economic Research at the University of Montana projects nonfarm labor income to increase by about 2 percent per year (adjusted for inflation) during the biennium. The state population is also anticipated to grow slowly during

the next few years. Representatives from the mining industries expect little or no growth in production from metal mines and coal mines. The production of oil may continue to decline but at a slower rate than the past several years. Statewide taxable value is expected to increase slightly from \$1.57 billion in 1990 to about \$1.6 billion in 1993. At its Dec. 7 meeting ROC will adopt the economic assumptions that will be used in developing the revenue estimates.

School of Forestry Proposal Endorsed...The Revenue Oversight Committee has been considering a draft bill that would change the taxation of forest lands from the standing inventory method to the productivity method with a yield tax option. The Committee heard a report from the University of Montana School of Forestry on the results of a pilot project conducted at the Lurecht Experimental Forest that measured the productive capacity of forest sites. The procedures developed in the pilot project may be used to develop statewide forest productivity classes as the basis for a forest productivity tax system. The Committee voted to include the School of Forestry proposal in the forest taxation bill. The Committee also voted to remove the yield tax option from the bill.

Other Committee Business...The Committee heard a staff report on the revenue potential from a general sales and use tax. Each 1 percent of sales tax in Montana would raise between \$57 million and \$115 million depending on what goods and services would be subject to the tax. Members of the Committee agreed to sponsor several Department of Revenue (DOR) legislative proposals clarifying existing law.

Meeting Scheduled for Dec. 7...ROC will meet at 9 a.m., Friday, Dec. 7, in Room 104 of the Capitol. In addition to the adoption of revenue estimating assumptions, other agenda items include:

- (1) SB 1 (May 1990, Special Session) reports on the new methods of taxing coal, oil, and natural gas;
- (2) DOR progress report on reappraisal cycle;
- (3) DOR legislative proposals relating to taxation;
- (4) Proposed changes in reporting dates from DOR to the Office of Public Instruction (OPI);
- (5) OPI report on per-pupil expenditures by district and budget category; and
- (6) report on the Montana Capital Company Act.

COMMITTEE ON STATE EMPLOYEE COMPENSATION

Pay Proposals Completed...The Committee on State Employee Compensation finalized its recommendations on state employee pay on Nov. 6. The Committee's final report to the Governor and the 52nd Legislature will be available in late December. The Committee's proposal, which addresses the statewide pay plan only, includes the following major recommendations:

- The statewide pay plan should be market-based and guided by a salary survey of Montana employers and the state governments of North Dakota, South Dakota, Wyoming, Idaho, and Washington. This five-state survey shows that salaries for Montana state employees are an average of 12.7% behind average salaries in this market.
- The midpoint salary (i.e., the salary in the middle between the entry and maximum salary) of each grade's pay range should match the average salary paid in the market for similar jobs in the grade. Thus, the midpoint salary is the "market salary" for each grade. As noted above, the Committee defines the market as other Montana employers and the state governments of North Dakota, South Dakota, Wyoming, Idaho, and Washington.
- The statewide pay plan should be changed from a 13-step pay plan to an open-range pay plan that provides the flexibility to fund general market-based salary increases as well as employee progression through the pay range of a grade. Unlike a step plan, which requires fixed progression increments and which can be compromised by step freezes, the open range plan is flexible enough to remain viable with varying amounts of funding.
- In each year of the next biennium, all employees in the statewide pay plan should receive a 4% general market adjustment and an additional 0.25% increase for each full percentage that an employee's base salary falls below the midpoint or market salary of the employee's assigned grade. The general market adjustment is based on an anticipated 3% movement in market salaries each year plus an additional 1% "catch-up" adjustment to close the gap on the current 12.7% market lag in state employee salaries. The 0.25% progression increase is provided to advance employees through their pay ranges toward the market salary. This will address the current compression of employee salaries at entry level by moving employees toward the

midpoint or market salary of the new pay ranges. The estimated total cost of the Committee's pay increase proposal is \$81.5 million, \$50.5 million of which would come from the general fund.

- To compensate state employees for regularly scheduled work hours other than the traditional day shift, the state should pay permanent employees a \$1 per hour shift differential in addition to their regular pay for each regularly scheduled hour worked between 6 p.m. and 7 a.m. as part of an extended service obligation. The Committee found that 45 of the 50 states compensate employees for regular work hours other than the day shift. The estimated cost for this proposal is \$1.6 million and would most affect employees of the Department of Institutions.

More information on the Committee on State Employee Compensation may be obtained from Sheri S. Heffelfinger at the Montana Legislative Council, 444-3064, or Laurie Ekanger, Director, State Personnel Division, Department of Administration, 444-3871.

LEGISLATIVE AUDIT COMMITTEE

Audit Reports Released...At its meetings on Nov. 15 and 16, the Audit Committee reviewed and released:

FINANCIAL-COMPLIANCE AUDITS:

Guaranteed Student Loan Program, Commissioner of Higher Education
A financial audit for the fiscal year 1990; unqualified opinion and there were no recommendations.

Montana Health Facility Authority

John Fine presented the biennial financial audit. The report contained an unqualified opinion on the financial statements of the Authority for the two fiscal years ended June 30, 1990.

CONTRACTED AUDITS:

Montana State Lottery

Financial audit for fiscal year ended June 30, 1990, conducted by Junkermier, Clark, Campanella, Stevens, P.C., Certified Public Accountants, under a contract between the firm and Office of the Legislative Auditor. The firm issued an unqualified opinion with one recommendation.

Montana State Lottery - Observation

Report on the audit of the Montana State Lottery Observations for the year ended June 30, 1990. The audit was conducted by Junkermier, Clark, Campanella, Stevens, P.C., Certified Public Accountants, under a contract between the firm and Office of the Legislative Auditor. The firm performed agreed-upon procedures on the Montana State Lottery for Big Spin and Big Win contestant drawings and events. The firm issued an unqualified opinion.

Montana Board of Housing

Financial audit for fiscal year ended June 30, 1990, conducted by Junkermier, Clark, Campanella, Stevens P.C., Certified Public Accountants, under a contract between the firm and Office of the Legislative Auditor. The firm issued an unqualified opinion and the report contained three recommendations.

Copies of reports are available from the Legislative Auditor's Office, Room 135, State Capitol, Helena, MT 59620, 444-3122.

Public Hearings...The Audit Committee held public hearings on the licensing of Auctioneers and Property Managers.

Sunrise Applications Discussed...Committee actions on prior Sunrise applications were discussed relating to the recommended licensure and regulation of Respiratory Care Therapists, Naturopathic Physicians, and Midwives.

Meeting Set Dec. 10...The next meeting of the Legislative Audit Committee is tentatively scheduled for Dec. 10. The reports scheduled to be presented include:

CONTRACTED AUDITS

Miles Community College

Dawson Community College

State Employee Benefits Program

FINANCIAL-COMPLIANCE AUDITS

Office of Secretary of State

Office of the Governor and Lieutenant Governor

PERFORMANCE SURVEY

University Staffing and Workload, Montana State University

PERFORMANCE AUDITS

Tort Claims Division, Department of Administration

Employment Services Program, Department of Labor and Industry

JOINT SELECT COMMITTEE ON WORKERS' COMPENSATION

Actuarial Evaluation Received...The Joint Select Committee on Workers' Compensation met Nov. 26 to hear Joseph T. Flynn, actuarial consultant from Alameda, Calif., present the findings of his review of the State Worker's Compensation Mutual Insurance Fund (State Fund) performed under contract with the Committee. The report found:

- Claim files' review showed consistent management standards reflective of recent court decisions. Examiner case loads are high and preclude good claim management; however, recent recruitment of additional claim examiners is reducing case loads and should speed settlements.
- Reserves on large claims were reasonable. A new computer reserving system should result in faster settings of reserves and reduced costs of reserving a claim.
- Medical subrogation recoveries have increased in the last year.
- Reserves for fiscal years 1986 through 1989 have been understated because of deteriorating claims experience not necessarily detectable on a statistical basis when the reserves were established and the overoptimism of the expected investment income generated by the reserves. This causes an understatement of incurred claims. Because incurred claims for the most recent full fiscal year are used to set premium increases, the next premium increase will be understated to the same extent as the incurred claims.
- The ability of the payroll tax to retire the year-end 1990 liability in a reasonable time period is in doubt. Calculation of the amount of liability is reasonably close to the State Fund's estimate using their 7% discount. However, use of a discount is questioned because few assets are available to earn income. An option might be to require the State Fund to write business at a higher percentage of National Council of Compensation Insurers' suggested rates with the extra

income to be used to pay the year-end 1990 liability on old claims.

- A functional cost study of State Fund operations should be performed to determine a reasonable level of expenses to be charged for processing claims to assure timely and effective processing. Reopened claims should be reviewed to assure that they are classified properly.
- Reconstruction of financial statements shows that \$100 million of the \$220 million deficit occurred for fiscal years 1985 through 1987 and the balance of the loss was for claims in years prior to 1985.
- SB 315 (1987) reduced compensation claims by about 30% and medical costs have leveled in the last three fiscal years. Benefit costs may increase when the freeze in the medical fee schedule and average weekly wage expires.
- The premium rate increase should be 12.2% rather than 8.6%.

Committee to Meet During Session...The Select Committee concluded its interim activities but decided to meet again during the first week of the 1991 session.

WATER POLICY COMMITTEE

Report Approved...The Water Policy Committee, at its final 1990 interim meeting on Nov. 27, approved the Committee report to the 52nd Legislature. The report consists of five sections dealing with significant water policy issues the Committee examined. While the published report will not be ready until the end of December, approved draft sections are available now from the EQC staff. The report covers:

WATER RESEARCH:

Montana Water Research Policy and Goals; 1989 Water Policy Committee Report Policy Choices and Implementation Activity; Water Resources Research Centers and Graduate Program Study; Interagency Water Research Policy Advisory Board Report; Comparison of Report Recommendations; Committee Comments on Board Report; and Committee Recommendations.

Current Water Research Activities

WATER DATA MANAGEMENT:

The Montana Water Information System (MWIS) Progress, Proposed Funding Sources, and Committee Recommendations.

The Ground Water Monitoring and Information Acquisition Plan, Background, Ground Water Task Force Findings, and Conclusions, Plan Description, and Committee Recommendations.

FEDERAL-STATE WATER RELATIONS:

Water Rights Adjudication: Background, Federal Concerns, and Committee Recommendations.

Water Development: Priority Projects, DNRC Water Development Program Report, and Committee Recommendations.

Pick-Sloan Program: Background, Pick-Sloan Steering Committee, and Committee Recommendations.

Hydro-power: Background, Hydro-power Licensing, Hydropower Coordinating Committee, and Committee Recommendations.

Reserved Water Rights Compact Commission: Background, Negotiation Process, Concerns, Status Update, and Committee Recommendations.

STATE WATER PLAN: Introduction, Background, Process (State Water Plan Advisory Council, Steering Committees, Public Comment), Concerns With The Process, State Water Plan Recommendations, Drought Management, Water Storage, and Committee Recommendations

WATER LEASING: Water Leasing Study Final Report, Background, Board and Commission Recommendations, Instream Resource Management in Montana, Existing Instream Resource Management Strategies, Implementation of the 1989 State Water Plan Instream Flow Subsection, Possible Instream Flow Management Strategies For Montana, Strategies To Maintain Existing Flows, and Strategies To Increase Flows In Dewatered Streams.

ENVIRONMENTAL QUALITY COUNCIL

Final Meeting Dec. 6... The final EQC meeting of the 1990 interim will

begin Thursday, Dec. 6, at 9 a.m. in room 108 of the Capitol and will continue Friday, Dec. 7. Thursday morning will start with a review of the Northwest Power Planning Council's draft 10-year plan and a follow-up on earlier Council discussion of forestry best management practices. Next, the Council will discuss and make final recommendations on the SJR-19 Solid Waste Management Study. Draft legislation regarding integrated waste management; solid waste importation; funding; regionalization; and infectious waste will be analyzed. Department of Health and Environmental Sciences officials will then brief the Council on the proposed reorganization of the state natural resource agencies. The last items on Thursday's agenda are the Log Scaling and Rural Development Study final reports. Friday's meeting, starting at 9 a.m., will concentrate on final recommendations on the SJR- 22 Ground Water Study. Draft legislation regarding the following specific issues will be analyzed: agricultural chemicals; ground water data management programs; ground water management areas; and septic systems and sewage disposal. Additionally, recommendations on underground storage tanks, ground water protection program, Water Quality Bureau staffing needs, and hard-rock mining will be finalized. The Council will finish its interim work with a review of the responses to the Council's August memo regarding the adequacy of environmental review in Montana. The Council will consider options regarding a broad MEPA implementation analysis for next interim.

LEGISLATIVE COUNCIL

Intern Nominees...The Legislative Council met Nov. 16 when one of the major items of business was selection of interns. However, insufficient interest was expressed and there were only two nominees for discretionary intern positions. The following six students have been designated by their school president or the Legislative Council as legislative interns for the upcoming session:

Eastern Montana College: Clarence Brock, Lee Rindal, Susan Ewen

Montana State University: Tyler Trevor

Rocky Mountain College: Roberta (Robyn) Driscoll

Western Montana College of the University of Montana: Nate Christensen

The Legislative Council is seeking additional nominations from schools that have not designated any to date. Up to 15 students are potentially eligible for appointment.

Code Commissioner Bill...The Council reviewed Code Commissioner Greg Petesch's recommendations for legislation. Sen. Gage agreed to sponsor the code commissioner bill. The Council also agreed to sponsor a bill abolishing the Capitol Building and Planning Committee and transferring its functions to the Department of Administration and the Legislative Council. This committee has not been funded over the last several biennia yet it has assigned duties that must be performed by some entity. The bill provides one means of clarifying the situation.

Regional Cooperation...In its budget, the Council provided funding for regional cooperation, but removed specific funding for several organizations including the Montana-Western Canadian Provinces Boundary Advisory Commission, the Western Legislative Forestry Task Force, and the Five-State Legislative Conference. Recent administration initiatives relating to increasing cooperation with Alberta in light of the free trade agreement were discussed with the Legislative Council by Pat Owen of the governor' office. The Council agreed that the Governor's interest in legislative involvement with the administration's efforts to improve trade with Alberta could shed a new light on the question of funding the Boundary Advisory Committee. The Governor's office agreed to provide the appropriations committee with information regarding support for the committee.

RESEARCH REPORTS:

- A General Sales and Use Tax Revisited: Estimated Revenue for 1992 and 1993



INTERIM CALENDAR

Dec. 1, Legislative Oversight Committee on School Funding Implementation, 9 a.m., Room 104, Capitol.

Dec. 6 and 7, Environmental Quality Council, Room 108

Dec. 7, Revenue Oversight Committee, Room 104

Dec. 10, Legislative Audit Committee

Dec. 25, Christmas, Holiday

Jan. 1, New Year's, Holiday

Jan. 7, 52nd Legislature convenes

TENTATIVE CALENDAR 52ND LEGISLATURE

As of November 28, 1990

Day	Date	Deadline or Event
1	Mon. Jan 7	Session Begins at Noon
10	Thurs. Jan 17	Last Day to Request General Bill or Resolution
14	Tues. Jan 22	Last Day of General Bill or Resolution Introduction*
17	Fri. Jan 25	Last Day to Request Revenue Bill
21	Wed. Jan 30	Last Day to Introduce Revenue Bill*
36	Sat. Feb 16	Last Day for Committee to Request Bill
40	Thurs. Feb 21	Last Day to Introduce Committee Bill*
45	Wed. Feb 27	Transmittal of General Bills to Other Chamber
	Thurs. Feb 28 - Sun. Mar 3	Transmittal Break (Traditional)
60	Wed. Mar 20	Transmittal of Revenue Estimating Joint Resolution
62	Fri. Mar 22	Last Day for Committee to Request Revenue Bill
66	Wed. Mar 27	Last Day for Introduction of Committee Revenue Bill*
67	Thurs. Mar 28	Transmittal of Appropriations Bills and Bills Implementing Provisions of General Appropriation Bills
	Sat. Mar 30	Easter Break (Traditional)
70	Tues. April 2	Last Day to Transmit Amendments to General Bills Back to Originating Chamber
71	Wed. April 3	Transmittal of Revenue Bills to Other Chamber
75	Mon. April 8	Last Day to Request Committee Bills Implementing Provisions of General Appropriations Act
78	Thurs. April 11	Last Day to Introduce Committee Bills Implementing Provisions of General Appropriations Act*
80	Sat. April 13	Transmittal of Amendments to Appropriations Bills
83	Wed. April 17	Transmittal of Amendments to Revenue Bills

90 Wed. April 25

Transmittal of Amendments to Revenue
Estimating Resolutions
Session Adjourns *Sine Die*

Notes:

This schedule is based on the Joint Rules adopted by the 51st Legislature and is subject to (and in some respects, certainly will) change upon adoption of rules by the 52nd Legislature. Deadline dates are determined according to legislative days, assuming a 6-day legislative week, which has been traditional. The Legislature traditionally meets on President's Day (Monday, February 18), which is otherwise a state holiday. The dates occurring prior to transmittal are probably reliable, but having a transmittal break is traditional only and may be changed, thus affecting later dates. The same caution exists with regard to not meeting March 30, the Saturday prior to Easter.

"General Bills" is used to denote all bills, except appropriation or revenue bills, and all joint resolutions.

Interim study resolutions and certain bills relating to administrative rules may be transmitted at any time during the session.

* Bills and resolutions delivered after the applicable introduction deadline must be introduced within 2 legislative days after delivery.

A Very Unofficial calendar prepared by Lee Heiman, Staff Attorney, Montana Legislative Council, for Legislative Council use.

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